IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.933 OF 2006.

Chandrakant Vishwanath Buva & Anr. ...Appellants

Versus

Vinayak Shankar Buva (Gosavi) & Anr. ...Respondents

Shri Dilip Bodake for the Appellants.

CORAM : ABHAY S.OKA, J.
DATED : 20th November, 2007.

P.C.:

1. Heard learned counsel appearing for the Appellants. Both the Courts below have held that the Appellants-Plaintiffs have failed to prove that they were in exclusive possession of the suit property.

2. The submission of the learned counsel for the Appellants is that in any case the Appellants have a share in the suit property and the decree obtained by fraud is not binding on the Appellants.

3. Perusal of the plaint shows that the case of the Appellants/Plaintiffs is that they were in possession of the suit property on the basis of a family arrangement. On consideration of oral and documentary evidence on record, the Courts below have found that the Appellants have failed to establish that they are in exclusive

possession of the property. There is no prayer made in the alternative in the suit either for possession or for partition and separate possession.

4. Once the only case made out by the Appellants regarding family arrangement and exclusive possession is held as not established, the courts below were justified in denying relief to the Appellants. No substantial question of law arises. Second Appeal is accordingly dismissed.

JUDGE